

EXHIBIT J

U.S. Department of
Homeland Security

United States
Coast Guard



Office of the Administrative
Law Judge
United States Coast Guard

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May 30, 2012

Mr. Anthony Eliseuson
SNR Denton US LLP
223 South Wacker Drive
Suite 7800
Chicago, IL 60606

RE: DHS FOIA APPEAL A-12-0022

Dear Mr. Eliseuson:

This letter is in response to your Freedom of Information Act (FOIA) appeal regarding the Department of Homeland Security (DHS) Office of General Counsel's (OGC or Agency) September 30, 2011 Final Response to your FOIA request PRIV 11-1242. Specifically you are appealing the "no records" determination by the Agency.

The Department of Homeland Security Privacy Office received your initial request on or about September 1, 2011. That office determined that if responsive records existed, they would be under the purview of other DHS component Agencies. The Privacy Office forwarded your request to each of those Agencies, one of which was OGC. Please note, this letter only addresses the response from the Department of Homeland Security, Office of General Counsel.

In your initial request made twenty six (26) enumerated requests many with several sub-parts. In summary you sought documents related to the list of Tier III terrorist organizations:

- A) A copy of the list of Tier III terrorist organizations kept by USCIS as referred to in Ahmed v. Scharfen, No. 08-1680, 2009 U.S. Dist. LEXIS 591 at *21 (N.D. Cal. Jan. 7, 2009), as it existed on December 15, 2008, when the government's counsel represented to the court that such a list exists;
- B) A copy of each subsequent list of Tier III terrorist organizations kept by USCIS after the list referenced in Ahmed v. Sharfen;
- C) All documents produced by the USCIS, DHS, or any other subcomponent of DHS in Ahmed v. Scharfen, No. 08-1680 (N.D. Cal.), not including documents that specifically relate only to Plaintiff Saeed Ahmed; and
- D) Any documents listing or describing organizations which have been designated Tier III terrorist organizations but which have yet to be used as a basis of inadmissibility against an applicant.

In its Final Response OGC stated that they "conducted a comprehensive search of files within DHS-OGC for records that would be responsive to your request." The Agency determined they were unable to locate any responsive records.

On May 18, 2012, the undersigned attorney issued a letter remanding your file to OGC for "further explanation and clarification as to how and where the search was conducted." On May 24, 2012 the Agency responded to the undersigned with the relevant information thereby completing the file.

Pursuant to a memorandum of agreement, the United States Coast Guard Office of the Chief Administrative Law Judge is reviewing the FOIA appeals for the Department of Homeland Security General Counsel. Therefore, the Office of the Chief Administrative Law Judge will be rendering the official appeal decision on behalf of the Department of Homeland Security.

After a thorough review of your appeal and the now complete file, the Agency's decision is being upheld. The Agency is required to conduct a "reasonable search" pursuant to 5 U.S.C. § 552(a)(3). The Agency makes the determination of where and how to search for responsive records. Lechliter v. Rumsfeld, 182 F. App'x 113, 115 (3d Cir. 2006) (holding that the agency fulfilled their duty to conduct a reasonable search when it searched two offices that it determined to be the only ones likely to possess responsive documents); Brehm v. DOD, 593 F. Supp. 2d 49, 50 (D.D.C. 2009) (finding that a search was reasonable where the agency searched two systems likely to have responsive records); Knight v. NASA, No. 04-2054, 2006 WL 3780901 (E.D. Cal. Dec. 21, 2006) (finding that there is no requirement that an agency search all possible sources in response to a FOIA request when it believes all responsive documents are likely to be located in one place). The Agency is in the best position to determine how to best search for records in their own systems. Here, the Agency searched the locations it determined were most likely to contain and search terms most likely to find responsive records. The Agency's search was reasonable and its "no records" determination is upheld.

This decision is the final action of the Department of Homeland Security concerning your FOIA request PRIV 11-1242 to OGC. While a comprehensive review of your appeal was made, you may seek judicial review of this decision pursuant to 5 U.S.C. §552(a)(4)(B) in United States District Court for either: 1) the district where you reside; 2) the district where the agency records are situated; or 3) the District of Columbia.

Sincerely,



TIMOTHY A. O'CONNELL
Attorney Advisor
United States Coast Guard

Copy : FOIA Officer, Office of General Counsel

Sent: Via first class mail to the above address.